

### **REMARKS**

Claims 1-10 are pending in this application. For purposes of expedition, claims 1-3 have been amended in several particulars for purposes of clarity and brevity, while Claims 4-10 have been newly added in accordance with current Office policy, to further and alternatively define Applicants' disclosed invention and to assist the Examiner to expedite compact prosecution of the instant application.

Claims 1-3 have previously been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner has repeated the same rejection discussed in the previous Office Action, that is, the claims are generally narrative and indefinite. However, claims 1-3 have previously been amended to overcome the basis of the rejection. Nevertheless, the Examiner has now questioned the meaning of the phrase "a toggle mechanism for operating to rotate ..." as defined in claim 1, and the phrase "when said moving contact is in contact with said fixed contact [claim 2 line 4, is applicant referring to the impact force of the moving contact being brought into contact with said moving contact]." In response thereto, claim 1 has been amended to further define that the "toggle mechanism" is operable "to rotate said moving contact support member so as to bring said moving contact held at one end of said moving contact support member into and out of contact with said fixed contact" in order to render the rejection moot. As for the assertion regarding claim 2, Applicants submit that there is **no** ambiguity with the phrase "an impact force, generated when said moving contact is in contact with said fixed contact by said toggle mechanism, is transmitted through the case to prevent occurrence of a mistrip" as defined in claim 2. The definiteness of the language employed must be analyzed not in a vacuum, but in light of the teachings in the prior

art and of the particular application disclosure as it would be interpreted by one skilled in the art. In re Angstadt, 537 F.2d 498, 190 USPQ 214, 217 (CCPA 1976). When interpreted in view of Applicants' disclosure, these phrases are clear as to their intended meanings. Therefore, in view of these explanations, and the proposed amendments to claim 1, Applicants respectfully request that the rejection of claims 1-3 be withdrawn.

Lastly, claims 1-3 have been rejected under 35 U.S.C. §103 as being unpatentable over newly cited art, Kume, U.S. Patent No. 5,886,604, in view of Kralik, U.S. Patent No. 6,087,914 for reasons stated on pages 2-3 of the Office Action (Paper No. 7). In support of this rejection, the Examiner asserts that Kume, U.S. Patent No. 5,886,604, discloses all the features of Applicants' claims 1-3, except for the use of a "fixed frame" which is allegedly disclosed by FIG. 7, items 70-72 of Kralik, U.S. Patent No. 6,087,914. While Applicants disagree with the Examiner's assessment of Kume '604 and Kralik '914, the Examiner has expressly acknowledged during the in-person Office Interview dated on December 4, 2003, as stated in the Examiner Interview Summary, that,

"... The Examiner also agreed that the detail of the disengaging device 9, as shown in FIG. 3B of the disclosure appears to be patentably distinguishable over Kume '604 and Kralik '914. As a result, if the claims were to be amended to include the detail of FIG. 3B, the claims will be considered as distinguishable over the cited prior art."

For purposes of expedition, base claim 1 has been amended to include the detail of FIG. 3B, including, for example, a yoke (30) of a coil (32), support plates (41, 41') extending from the yoke (30) of the coil (32), and a trip lever 23 mounted on the yoke (30) of the coil (32), via the support plates (41, 41') in order to clearly

distinguish over the cited prior art as indicated by the Examiner in the Examiner Interview Summary dated on December 4, 2003. As amended, base claim 1 and its dependent claims 2-3 are believed to be in condition for allowance for reasons discussed, namely the detail of FIG. 3B and the arrangement of "a trip lever of a disengaging device" relative to a fixed frame of an opening/closing device, i.e., "mounted on a yoke of said coil" (and **not** mounted on a fixed frame of the opening/closing mechanism 8 as shown in FIGs. 1-5) and "separated from a fixed frame" as described on page 3, lines 3-7; and page 5, line 27 extending to page 6, line 13 of Applicants' original specification, also see FIGs. 1-2. Since the trip lever 23 is mounted on the yoke 30 of the coil 32 in the disengaging device 9 (not mounted on the fixed frame of the opening/closing mechanism 8) so as to enable the trip lever 23 in the disengaging device 9, as shown in FIGs. 1-5, the shock caused at the opening/closing mechanism side 8 during ON-OFF operations can now be transmitted through the case 10. As a result, mistrip, typically occurred when the moving contact is brought into contact with the fixed contact, can be prevented as described in Applicants' original specification.

As previously submitted, Kume U.S. Patent No. 5,886,604, and Kralik, U.S. Patent No. 6,087,914, whether taken individually or in combination, fail to disclose or suggest the detail of FIG. 3B and the arrangement of a trip lever of a disengaging device being "mounted on a yoke of said coil" (and **not** mounted on a fixed frame of the opening/closing mechanism 8 as shown in FIGs. 1-5) and "separated from a fixed frame" as expressly defined in Applicants' claims 1-3.

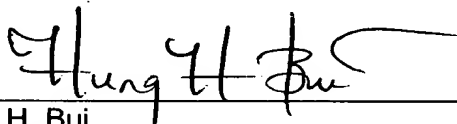
Claims 4-5 have been newly added to depend upon the now allowed base claim 1. Likewise, claims 6-10 have been newly added to alternatively define the structure of FIG. 3B in the context of Applicants' disclosed "circuit breaker".

In view of the foregoing amendments, arguments and remarks, all claims 1-10 are deemed to be allowable and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC area office at (703) 312-6600.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (500.39462X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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